

State is located, in accordance with section 107(d) of the Act.

(Approved by the Office of Management and Budget under control number 1820-0527)

(Authority: 29 U.S.C. 711(c) and 796d-1(a))

§ 364.13 Under what circumstances may funds be withheld, reduced, limited, or terminated?

(a) *When withheld, reduced, limited, or terminated.* Payments to a State under chapter 1 of title VII of the Act may be withheld, reduced, limited, or terminated as provided by section 107(c) of the Act if the Secretary finds that—

(1) The State plan has been so changed that it no longer conforms with the requirements of section 704 of the Act; or

(2) In the administration of the State plan, there is a failure to comply substantially with any provision of the plan.

(b) *Informal resolution.* If the Secretary intends to withhold, reduce, limit, or terminate payment of funds to a State under title VII of the Act as provided by section 107(c) of the Act, the Secretary attempts to resolve disputed issues informally with State officials.

(c) *Notice of formal hearing.* If, after reasonable effort has been made to resolve the dispute informally, no resolution has been reached, the Secretary provides written notice to the DSU and SILC of the intention to withhold, reduce, limit, or terminate payment of funds under title VII of the Act and of the opportunity for a hearing.

(d) *Hearing.* If the DSU requests a hearing, the Secretary designates an administrative law judge (ALJ) in the Office of Administrative Law Judges to conduct a hearing in accordance with the provisions of 34 CFR part 81, subpart A.

(e) *Initial decision.* The ALJ issues an initial decision in accordance with 34 CFR 81.41.

(f) *Petition for review of an initial decision.* The DSU may seek the Secretary's review of an ALJ's initial decision in accordance with 34 CFR 81.42.

(g) *Review by the Secretary.* The Secretary reviews an ALJ's initial decision in accordance with 34 CFR 81.43.

(h) *Final decision of the Department.* The ALJ's initial decision becomes the

final decision of the Department in accordance with 34 CFR 81.44.

(i) *Judicial review.* A State may appeal the Secretary's final decision to withhold, reduce, limit, or terminate payment of funds to a State under title VII of the Act by filing a petition for review with the U.S. Court of Appeals for the circuit in which the State is located, in accordance with section 107(d) of the Act.

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(Authority: 29 U.S.C. 727(c)-(d) and 796d-1(a))

Subpart C—What Are the State Plan Requirements?

§ 364.20 What are the general requirements for a State plan?

(a) *Form and content.* The State plan must contain, in the form prescribed by the Secretary, the information required by this part and any other information requested by the Secretary.

(b) *Duration.* (1) The State plan must cover a three-year period and must be amended whenever necessary to reflect any material change in State law, organization, policy, or agency operations that affects the administration of the State plan.

(2) The Secretary may require a State to submit an interim State plan for a period of less than three years following a reauthorization of the Act and prior to the effective date of final regulations.

(c) *Joint development-single agency.* The State plan must be jointly—

(1) Developed by the DSU and the SILC; and

(2) Signed by the—

(i) Director of the DSU (Director); and

(ii) Chairperson of the SILC, acting on behalf of and at the direction of the SILC.

(d) *Joint development-separate agency for individuals who are blind.* If a separate State agency is authorized by State law as the sole State agency with authority to administer or supervise the administration of that part of the State plan relating to the vocational rehabilitation of individuals who are blind, the State plan must be jointly—